

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA

DOCKET NO. 2008-49-C - ORDER NO. 2008-389

MAY 20, 2008

IN RE: Application of FRC, LLC for a Certificate of)	ORDER GRANTING
Public Convenience and Necessity to Provide)	CERTIFICATE AND
Local Exchange and Exchange Access)	APPROVING FLEXIBLE
Services throughout the State of South)	REGULATION
Carolina and Request for Flexible Regulation)	

This matter comes before the Public Service Commission of South Carolina (“Commission”) by way of the Application of FRC, LLC (“FRC” or the “Company”) requesting a Certificate of Public Convenience and Necessity authorizing it to provide local exchange and exchange access services to residential and business customers within the State of South Carolina. The Company’s Application was filed pursuant to S.C. Code Ann. §58-9-280 (Supp. 2007) and the rules and regulations of the Commission. By its Application, FRC also requests flexible regulation of its local exchange service offerings pursuant to Order No. 98-165 in Docket No. 1997-467-C, and a waiver of certain regulations. FRC is made up of two members, PalmettoNet, Inc. and SCANA Communications, Inc., both of which are certified to provide telecommunications services within the State of South Carolina. In addition, FRC is authorized by Order No. 2006-449 to provide intrastate telecommunications services as a “carrier’s carrier” throughout the State of South Carolina.

The Commission’s Docketing Department instructed FRC to publish, one time, a Notice of Filing in newspapers of general circulation in the areas of the state affected by

the Application. The purpose of the Notice of Filing was to inform interested parties of the Application of FRC and of the manner and time in which to file the appropriate pleadings for participation in the proceeding. FRC complied with this instruction and provided the Commission with proof of publication of the Notice of Filing. A Petition to Intervene was filed by the South Carolina Telephone Coalition (“SCTC”). Subsequent to the intervention, FRC and SCTC reached a Stipulation, attached hereto as Order Exhibit 1.

Subsequently, FRC filed a revised tariff and a Motion for Expedited Review, along with the amended verified testimony of W. Grey Humphrey, Jr., President of PalmettoNet, Inc., which is General Manager of FRC, LLC. FRC noted in its Motion that no other intervention, other than that by SCTC, was submitted, nor were any other comments. As noted, a Stipulation was reached between SCTC and the Company. The Office of Regulatory Staff (“ORS”) indicated that it did not oppose the Application. ORS also consented to the Motion. Accordingly, FRC moves for consideration of the Application, based on the filed Application and the amended verified testimony. Since there is no opposition, the Motion for Expedited Review is granted. The verified amended testimony supported the Company’s Application.

The record reveals that FRC is a limited liability corporation organized under the laws of South Carolina. According to Mr. Humphrey, the Company seeks authority to provide competitive intrastate resold and facilities-based local exchange service and exchange access services to residential and business customers throughout the State of South Carolina. FRC will not offer switched access services at this time, but may

introduce such services at a later date. The initial services that FRC proposes to offer under this authority include private line and special access services. FRC will use its own facilities or a combination of its own facilities and those of other carriers to provide service. The Company already provides carrier's carrier services pursuant to Order No. 2006-469. Mr. Humphrey further explained the Company's request for authority, and the record further reveals the Company's services, operations, and marketing procedures. Mr. Humphrey also discussed FRC's technical, financial, and managerial resources to provide the services for which it seeks authority. Mr. Humphrey offered that FRC possesses sufficient financial resources to support its operations in South Carolina.

With regard to management and technical capabilities, the Company's Application and Mr. Humphrey's testimony both evidence that FRC's management has extensive experience in telecommunications, information technology, regulatory matters, and accounting and finance. Mr. Humphrey also testified that FRC will operate in accordance with Commission rules, regulations, guidelines, and Commission Orders. Mr. Humphrey offered that approval of FRC's Application would serve the public interest.

Mr. Humphrey, on behalf of the Company, requests that this Commission continue in effect all waivers previously granted in Order No. 2006-469. In addition, the Company requests a waiver of any regulation requiring the publication of local directories, i.e. 26 S.C. Code Ann. Regs. 103-631 (Supp. 2007), and further, requests flexible regulation under Order No. 98-165.

After consideration of the applicable law, the Company's Application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

FINDINGS OF FACT

1 FRC is organized as a limited liability corporation under the laws of the State of South Carolina.

2 FRC desires to operate as a provider of facilities-based and resold local and access exchange services in South Carolina.

3 We find that FRC possesses the managerial experience and capability to operate as a provider, on a facilities-basis and through resale, of local services and exchange access services in South Carolina.

4 We find, based on the financial statements submitted by the Company and the verified testimony, that FRC possesses sufficient financial resources to provide the services as described in its Application and testimony.

5 We find that the issuance of a Certificate of Public Convenience and Necessity to FRC to operate on a facilities basis and as a reseller of local exchange telecommunications and access exchange services in South Carolina would be in the best interest of the citizens of South Carolina by providing more innovative services.

6 FRC requests a waiver of 26 S.C. Code Ann. Regs. 103-631 (Supp. 2007). The Commission finds FRC's requested waiver reasonable and understands the potential difficulty presented to FRC should the waiver not be granted. Further, we find that a waiver of 26 S.C. Code Ann. Regs. 103-631 (Supp. 2007) is in the public interest. We

also believe that continuance of the waivers granted in Order No. 2006-469 is in the public interest.

7 The Company has the managerial, technical, and financial resources to provide the services as described in its Application. S.C. Code Ann. Section 58-9-280 (B) (1) (Supp. 2007).

8 The Commission finds that the Company's "provision of service will not adversely impact the availability of affordable local exchange service." S.C. Code Ann. Section 58-9-280 (B) (3) (Supp. 2007).

9 The Commission finds that the Company will support universally available telephone service at affordable rates. S.C. Code Ann. Section 58-9-280 (B) (4) (Supp. 2007).

10. The Commission finds that services to be provided by the Company will meet the service standards of the Commission. S.C. Code Ann. Section 58-9-280 (B) (2) (Supp. 2007).

11. The Commission finds that the provision of local exchange service by the Company "does not otherwise adversely impact the public interest." S.C. Code Ann. Section 58-9-280(B)(5) (Supp. 2007).

12. Following execution of a Stipulation with intervenor South Carolina Telephone Coalition ("SCTC"), the SCTC withdrew its opposition to the Application.

CONCLUSIONS OF LAW

1 The Commission concludes that FRC possesses the managerial, technical, and financial resources to provide the telecommunications services as described in its Application.

2 The Commission concludes that FRC will participate in the support of universally available telephone service at affordable rates to the extent that FRC may be required to do so by the Commission.

3 The Commission concludes that FRC will provide services which will meet the service standards of the Commission.

4 The Commission concludes that approval of FRC's Application to provide intrastate telecommunications services within South Carolina will serve the public interest by providing for efficient use of existing telecommunications resources.

5 The Commission concludes that the provision of telecommunications service by FRC will not adversely impact the public interest.

6 The Commission concludes that the issuance of the authority to provide intrastate local exchange and exchange access telecommunications services as requested by FRC and as set forth in its Application and Mr. Humphrey's testimony is in the best interests of the citizens of the State of South Carolina.

7 The Commission concludes that a Certificate of Public Convenience and Necessity should be granted to FRC to provide resold intrastate local exchange telecommunications services and intrastate access exchange telecommunications services.

8 The Commission concludes the Company's local exchange telecommunications services shall be regulated in accordance with the principles and procedures established for flexible regulation first granted to NewSouth Communications by Order No. 98-165 in Docket No. 97-467-C. Specifically, the Commission adopts for the Company's competitive intrastate local exchange services a rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels approved by the Commission. Further, the Company's local exchange service tariff filings are presumed valid upon filing. An investigation of the tariff filing may be instituted within 30 days of the tariff filing, in which case the tariff filing would be suspended pending further Order of the Commission. If an investigation is instituted on a particular tariff filing, notice of the investigation will be provided to the person or entity making the tariff filing and to the Commission. The notice is timely if dated within thirty days of the filing date. Further, any such tariff filings will be subject to the same monitoring process as similarly situated local exchange carriers.

9. We conclude that FRC's request for waiver of 26 S.C. Code Ann. Regs. 103-631 (Supp. 2007) should be granted as strict compliance with the regulation would potentially cause undue hardship on that Company. We further conclude that all waivers granted by Order No. 2006-469 should be continued.

10. The Stipulation between the Company and SCTC should be approved.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED THAT:

1 A Certificate of Public Convenience and Necessity should be granted to FRC to provide intrastate facilities-based and resold local exchange and exchange access telecommunications services within the State of South Carolina.

2 The Company's rate designs for its products shall conform to those designs described in Conclusions of Law above, and with the agreed-upon tariff provisions as between FRC and ORS.

3 If it has not already done so by the date of issuance of this Order, FRC shall file its revised tariff, if any, and an accompanying price list for any applicable rates within thirty (30) days of receipt of this Order. The revised tariff shall be consistent with the findings of this Order and shall be consistent with the Commission's Rules and Regulations, as well as the provisions of the tariff-revision agreement between FRC and ORS. The revised tariff shall be filed by means of the Commission's e-filing system, if feasible.

4 FRC shall resell the services of only those LECs authorized to do business in South Carolina by this Commission. If FRC changes underlying carriers, it shall notify the Commission in writing.

5 FRC shall file annual financial information in the form of annual reports and gross receipts reports as required by the Commission. The annual report and the gross receipt report will necessitate the filing of intrastate information. Therefore, FRC shall keep financial records on an intrastate basis for South Carolina to comply with the annual report and gross receipts filings. The proper form for filing annual financial

information can be found at the Commission's website at the ORS's website at www.regulatorystaff.sc.gov. The title of this form is "Telecommunications Company Annual Report." This form shall be utilized by the Company to file annual financial information with the Commission and ORS and shall be filed no later than **April 1st**.

Commission gross receipts forms are due to be filed with the Commission and ORS no later than **August 31st** of each year. The proper form for filing gross receipts information can be found at the ORS website at www.regulatorystaff.sc.gov, and the appropriate form is entitled "Gross Receipts Form."

Each telecommunications company certified in South Carolina is required to file annually with the ORS the Intrastate Universal Service Fund ("USF") worksheet, which may be found on the ORS's website at www.regulatorystaff.sc.gov. This worksheet provides ORS information required to determine each telecommunications company's liability to the State USF fund. The Intrastate USF worksheet is due to be filed annually no later than **July 1st** with the USF administrator as required by the Commission's USF Administrative Guidelines.

6. The Company is directed to comply with all Rules and Regulations of the Commission, unless a regulation is specifically waived by the Commission.

7. FRC requested a waiver of 26 Code Ann. Regs. 103-631 (Supp. 2007). The Commission finds FRC's requested waiver reasonable and understands the potential difficulty presented to FRC should the waiver not be granted. The Commission therefore grants the requested waiver. Further, all waivers granted in Order No. 2006-469 are hereby continued.

8. Should FRC offer or provide any service that would implicate Title 23, Chapter 47 of the South Carolina Code Annotated regarding “Public Safety Communications Centers,” FRC is required to comply with that Title and Chapter, which is more commonly known as a “911” system or “911 service.” Services available through a 911 system include law enforcement, fire, and emergency medical services. In recognition of the necessity of quality 911 services being provided to the citizens of South Carolina, the Commission hereby instructs FRC to contact the appropriate authorities regarding 911 service in the counties and cities where the Company will be operating, should it provide any service that would implicate the Title and Chapter stated above. Contact with the appropriate 911 service authorities is to be made before beginning such local telephone service in South Carolina. Accompanying this Order is a memorandum from the State 911 Office of the Office of Research & Statistics of the South Carolina Budget and Control Board. This memorandum provides information about contacting County 911 Coordinators. By this Order and prior to providing local telephone services in South Carolina, FRC shall contact the 911 coordinator in each county (and city where the city has its own 911 system) and shall provide information regarding the Company’s operations as required by the 911 system.

9. The Stipulation between FRC and SCTC is hereby approved.

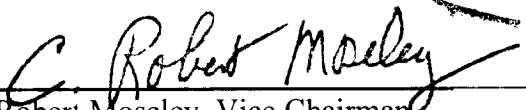
10. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:



G. O'Neal Hamilton, Chairman

ATTEST:



C. Robert Moseley, Vice Chairman

(SEAL)

**Application of FRC, LLC, for a Certificate of Public
Convenience and Necessity to Provide Local Exchange
and Exchange Access Services throughout the State of South
Carolina and Request for Flexible Regulation**

The South Carolina Telephone Coalition ("SCTC") (see attachment "A" for list of companies) and FRC, LLC ("FRC") hereby enter into the following stipulations. As a consequence of these stipulations and conditions, SCTC does not oppose FRC's Application. SCTC and FRC stipulate and agree as follows:

1. SCTC does not oppose the granting of a statewide Certificate of Public Convenience and Necessity to FRC, provided the South Carolina Public Service Commission ("Commission") makes the necessary findings to justify granting of such a certificate, and provided the conditions contained within this stipulation are met.

2. FRC stipulates and agrees that any Certificate which may be granted will authorize FRC to provide service only to customers located in non-rural local exchange company ("LEC") service areas of South Carolina, except as provided herein.

3. FRC stipulates that it is not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas.

4. FRC stipulates and agrees that it will not provide any local service, by its own facilities or otherwise, to any customer located in a rural incumbent LEC's service area, unless and until FRC provides such rural incumbent LEC and the Commission with written notice of its intent to do so at least thirty (30) days prior to the date of the intended service. During such notice period, the rural incumbent LEC will have the opportunity to petition the Commission to exercise all rights

afforded it under Federal and State law. Also, FRC acknowledges that the Commission may suspend the intended date for service in rural LEC territory for ninety (90) days while the Commission conducts any proceeding incident to the Petition or upon the Commission's own Motion, provided that the Commission can further suspend the implementation date upon showing of good cause.

5. FRC stipulates and agrees that, if FRC gives notice that it intends to serve a customer located in a rural incumbent LEC's service area, and either (a) the Commission receives a Petition from the rural incumbent LEC to exercise its rights under Federal or State law within such 30-day period, or (b) the Commission institutes a proceeding of its own, then FRC will not provide service to any customer located within the service area in question without prior and further Commission approval.

6. FRC acknowledges that any right which it may have or acquire to serve a rural telephone company service area in South Carolina is subject to the conditions contained herein, and to any future policies, procedures, and guidelines relevant to such proposed service which the Commission may implement, so long as such policies, procedures, and guidelines do not conflict with Federal or State law.

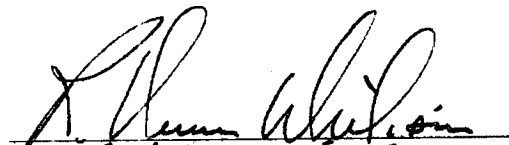
7. The parties stipulate and agree that all rights under Federal and State law are reserved to the rural incumbent LECs and FRC, and this Stipulation in no way suspends or adversely affects such rights, including any exemptions, suspensions, or modifications to which they may be entitled.

8. FRC agrees to abide by all State and Federal laws and to participate, to the extent it may be required to do so by the Commission, in the support of universally available telephone service at affordable rates.

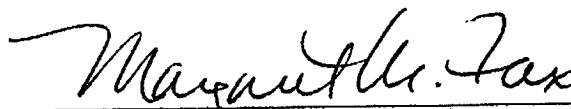
9. FRC hereby amends its application and its prefiled testimony in this docket to the extent necessary to conform with this Stipulation.

AGREED AND STIPULATED to this 7th day of April, 2008.

FRC, LLC:


By: R. VERNON WILLIAMS
Its: MANAGER

South Carolina Telephone Coalition:


By: Margaret M. Fox, Esquire
McNair Law Firm, P.A.
Post Office Box 11390
Columbia, South Carolina 29211
(803) 799-9800

ATTORNEYS FOR SOUTH
CAROLINA TELEPHONE COALITION

ATTACHMENT A

South Carolina Telephone Coalition Member Companies
for Purposes of Local Service Stipulation

Chesnee Telephone Company
Chester Telephone Company
Farmers Telephone Cooperative, Inc.
Ft. Mill Telephone Company
Home Telephone Company, Inc.
Lancaster Telephone Company
Lockhart Telephone Company
McClellanville Telephone Company
Norway Telephone Company
Palmetto Rural Telephone Cooperative, Inc.
Piedmont Rural Telephone Cooperative, Inc.
Pond Branch Telephone Company
Ridgeway Telephone Company
Rock Hill Telephone Company
Sandhill Telephone Cooperative, Inc.
St. Stephen Telephone Company
West Carolina Rural Telephone Cooperative, Inc.
Williston Telephone Company

STATE OF SOUTH CAROLINA
State Budget and Control Board
OFFICE OF RESEARCH & STATISTICS

MARK SANFORD, CHAIRMAN
GOVERNOR

GRADY L. PATTERSON, JR.
STATE TREASURER

RICHARD ECKSTROM
COMPTROLLER GENERAL



HUGH K. LEATHERMAN, SR.
CHAIRMAN, SENATE FINANCE COMMITTEE

ROBERT W. HARRELL, JR.
CHAIRMAN, WAYS AND MEANS COMMITTEE

FRANK W. FUSCO
EXECUTIVE DIRECTOR

REMBERT C. DENNIS BUILDING
1000 ASSEMBLY STREET, SUITE 425
COLUMBIA, SOUTH CAROLINA 29201

Bobby Bowers
DIRECTOR

August 2, 2004

To: Telephone Companies New to South Carolina

In an effort to continue providing quality emergency services to the citizens of South Carolina, the State 911 Office requests that before beginning telephone services in a county, you contact the 911 Coordinator in that county. This will allow both parties to obtain important information about providing 911 services in that county. If you have already begun services, then contact the coordinator as soon as possible.

A list of County 911 Coordinators can be found on the South Carolina E911 homepage at www.ors.state.sc.us/digital/E-911.ASP. If you have any questions related to 911 in South Carolina, you may contact E911 Coordinations at the Office of Research and Statistics at 803-734-3883. The person responsible for this can also be found on the 911 homepage. Please be aware that some cities may have their own E911 systems, these are also listed on the 911 homepage. These city coordinators will need to be contacted in addition to the county coordinators.

ECONOMIC RESEARCH
WILLIAM GILLF SPICE
(803) 734-3885

GEODETIC SURVEY
5 GEOLOGY ROAD
COLUMBIA, S.C. 29210
LEWIS LAPINE
(803) 896-7700

DIGITAL CARTOGRAPHY
(803) 734-3802

HEALTH & DEMOGRAPHICS
STATISTICS
1919 BLANDING STREET
COLUMBIA, S.C. 29201
WALTER P. BAILEY, M.P.H.
(803) 898-9941